IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO. 4719 OF 2005

Nasir Kutubuddin Godiwalla & Ors ...Applicants

Versus

M/s. India Hydraulic Co. & Anr ...Respondents

.....

Mr. Hrashad Palwe, Advocate for Applicants.

Mr. V.B. Konde Deshmukh, A.P.P. for State.

.....

CORAM: SMT. V.K. TAHILRAMANI, J.

DATED: 12TH AUGUST, 2005

P. C.:-

1. Heard.

2. The learned advocate for the applicants states that he is not pressing the prayer for transfer of the case and he is praying only for quashing of complaint. The learned advocate for the applicants further states that he may be granted liberty to prefer separate application in respect of transfer of case, if necessary. Liberty granted as prayed for.

3. In view of the above, this application is considered only in respect of quashing of Complaint No.22/SS/2005 which is pending in the Court of learned Metropolitan Magistrate, 11th Court, Small

Causes Court, Mumbai. In the said case, process has been issued against the applicants under Section 138 of Negotiable Instruments Act. The learned advocate for the applicants submitted that the learned Magistrate committed an error in issuing process and the said process deserves to be set aside. If the process issued against the applicants is set aside, the proceedings in respect of the applicants would come to an end.

3. For the reasons recorded in my order dated 13th June, 2005 passed in Criminal Writ Petition No.213 of 2005 and order dated 21st June, 2005 passed in Criminal Application No.550 of 2005, the applicants have an efficacious remedy of preferring revision against the order of Magistrate issuing process. Hence, in my opinion, it would be appropriate that the applicants prefer revision before the concerned Sessions Court against the order of the Magistrate issuing process.

4. Liberty is granted to the applicants to prefer revision before the concerned Sessions Court. The learned advocate for the applicants states that the necessary revision would be preferred within a period of four weeks from today. In view of this statement, the trial Court shall not proceed with the trial for a period of four weeks from today.

5. On the necessary revision being preferred by the applicants before the concerned Sessions Court, the concerned Sessions Court shall dispose of the same on merits after hearing necessary parties.

6. Application is disposed of.

*****